

The second regular meeting of the Kingsbury Town Board was conducted on July 16, 2018 at the Kingsbury Town Hall at 6 Michigan Street, Hudson Falls.

MEMBERS PRESENT: Dana Hogan, Supervisor
Richard Doyle, Councilman
Henry Freebern, Councilman
William Haessly, Councilman
Dan Washburn, Councilman

OTHERS PRESENT: Jeffrey Meyer, Town Attorney
Ross Cortese, Code Enforcement Officer
Michael Graham, Superintendent of Highways
Todd Humiston, Dog Control Officer
Hank LaFountain, Zoning Board Chairman
Jerry & Jolene Caruso, Town Residents
Timothy Fish, Town Resident
Steve Chase, Town Resident
Claudia Braymer, ESQ., Attorney for Mr. Chase

The meeting was called to order at 7 p.m. by Supervisor Hogan and opened for the order of business with the Flag Salute led by Councilman Washburn.

The minutes of the July 2, 2018 Town Board Meeting were accepted as submitted by the Town Clerk on a **motion** by Councilman Freebern seconded by Councilman Haessly and carried by a vote of 5 ayes.

Supervisor Hogan opened Qualifications for the expansion of the Washington County Sewer District for the Town of Kingsbury and the Town of Fort Edward. All qualifications were received in the office of the Town Clerk before 1 p.m. on Friday July 13, 2018. RFQ's were received from M.J. Engineering and Land Surveying, P.C., The Chazen Companies, Barton & Loguidice and C.T. Male Associates. Supervisor Hogan will distribute copies of the proposals to the Town of Fort Edward and Joe Brilling, the Executive Director of the Washington County Sewer District and then a strategy will be determined.

Supervisor Hogan announced there will be a Sexual Harassment Training on October 18, 2018 at the Kingsbury Town Hall. For those who are unable to attend in October, training will be conducted at other sites with one scheduled in Argyle in August.

LEGAL UPDATE:

Attorney Meyer distributed copies of a draft of changes to the dog control laws as requested by Dog Control Officer Todd Humiston. Meetings will be scheduled to review the proposed changes. Attorney Meyer distributed a working draft of the proposed Solar Energy System PILOT Law. There is one question on how much detail the Board would like included in the Local Law in setting the payment amount.

A **motion** by Councilman Freebern seconded by Councilman Washburn and carried by a vote of 5 ayes to accept the reports of certain officer for the month of June as follows:

Code Enforcement Officer: Research Fees 1j; Variances 1; Total Fees \$225.00

<http://www.kingsburyny.gov>

Dog Control Officer: Complaints/Calls 61; Seizures 7; Unlicensed Dogs 16; Summons Issued 3;
Mileage 506 with 75 charged to Fort Edward & 62 charged to Fort Ann
Town Comptroller: Receipts \$87,792.46; Disbursements \$267,739.86

TOWN CLERK REPORT:

The next Town Board meeting will be conducted on August 6, 2018.

FOIL request received from Positive Energy NY, LLC for documents pertaining to DEC violations for the former East Side facility located on Route 149.

Town Clerk is working on records retention and preparing for the 2018-19 Hudson Falls School District Tax Collection.

DOG CONTROL OFFICER REPORT:

Todd Humiston will be on vacation from July 20th to July 29th.

Attorney Meyer distributed copies of proposed changes pertaining to current Dog Control Laws;

Supervisor Hogan will contact Dog Control Officer Todd Humiston and Councilman Washburn to schedule a meeting to review the proposed changes when Humiston returns from vacation.

Assemblywoman Woener's office reached out to Todd Humiston and will contact him in regard to the Dog Safety Program.

HIGHWAY SUPERINTENDENT REPORT:

The paving is complete.

They are working on the sand pile which is approximately ¾'s complete.

The Highway Superintendent Conference went very well. Mike was on a panel called "Superintendents" consisting of 4 superintendents who discussed everyday issues.

Cornell Local Roads attended Safety Days in Washington County this year which was conducted by Phil Spizzo. The safety program used by Washington County will be featured in the fall newsletter of the Cornell Local Roads. Funding will be sought by other counties to implement the safety program.

Mike would like to work on the property recently purchased for additional parking for the Kingsbury Town Court. Supervisor Hogan suggested the court apply for a grant from The Justice Court Assistance Program before Graham proceeds. Supervisor Hogan will speak to Judge Keenan about applying for a grant. The Highway Department can start clearing trees on the property.

Supervisor Hogan commented over the last few weeks he had received a number of compliments about the quality of the paving of Town roads.

COUNCILMAN REPORT:

Councilman Doyle would like the moratorium prohibiting large scale solar energy generating facilities to expire. Councilman Doyle has one suggestion in regard to the proposed Local Law for Solar PILOT, which he will discuss later.

Supervisor Hogan asked Attorney Meyer if it was possible for the Town to require a performance bond be in place for clean-up of solar projects in the event the project defaults or does not work out. Attorney Meyer commented the Planning Board could do that as they had done with Cypress Creek or the Town could update the Local Law. Attorney Meyer stated our current Local Law does not specify financial surety. The Board agreed a performance bond would protect the Town. Attorney Meyer will prepare a draft to amend the Local Law of that chapter of the Zoning Law.

CODE ENFORCEMENT OFFICER.

Ross Cortese reported he has received many calls in regard to the moratorium prohibiting a large scale solar energy generating facility land use. With the expiration of the moratorium he can accept applications for solar farms.

PUBLIC COMMENT:

Steve Chase and Claudia Braymer, ESQ, attorney for Steve Chase were present for the Board Meeting. At 7:25 Supervisor Hogan explained to Ms. Braymer that he was going to recuse himself.

Attorney Braymer stated Mr. & Mrs. Chase were concerned with the development behind their house off from Vaughn Road on property owned by Ken Collette. The Chase's have attended town board meetings in the past. They attended this evening due to the most recent activities with the cutting of trees in the 50 foot buffer zone, previously 40 foot buffer zone, no cut zone. Attorney Braymer and Mr. Chase did have a meeting with Mr. Collette and his attorney in the beginning of May where there was a private agreement made between the parties. A fence was to be installed behind the Chase home as well as some of the other neighbors. They had no understanding that Mr. Collette was going to clear cut behind their property and they believe Mr. Collette will do further cutting of trees to install the fence. They are now concerned there is no screening between the activities that are happening at his property which involve the construction business, the outdoor storage and the construction of the storage units. Attorney Braymer believes the Town code indicates you can only have one use at a time. Attorney Meyer has explained Mr. Collette is not in violation. Attorney Meyer and Attorney Braymer tend to agree to disagree at this time on this issue. Attorney Braymer feels a restoration plan needs to be put in place to restore the property by installing a fence and planting trees directly behind the Chase home because all the trees are gone. Attorney Braymer is aware that Code Enforcement Officer Ross Cortese has sent a notice of violation and they are hopeful that the Town Board will support the Code Enforcement Officer in requiring a restoration plan.

Councilman Freebern asked Ross Cortese if the fence was going to be on Collette's side of the 50 foot buffer zone. Ross answered that is not where the plan is, Mr. Collette's plan was to put the fence inside the buffer area approximately 10 feet from the property line.

Councilman Washburn asked Attorney Braymer if she had any notes or minutes from the meeting with Mr. Collette and his attorney in May. Councilman Washburn stated the Board has no clue what was said or what was agreed upon, the Town Zoning Board put something into place, and your client and Mr. Collette and his attorney decided to have a meeting to agree with something that the Town did not agree to. Ms. Braymer stated she has the minutes but what we are asking to do is to enforce what the ZBA has already approved and that plan did not include that there would be cutting in the 50 feet buffer zone. Ms. Braymer stated there was no understanding at the meeting that Mr. Collette would be cutting trees in the buffer zone, but they actually did not talk about that to the nth degree. Ms. Braymer stated he may have had to cut a few trees to put in the fence. Councilman Washburn does not disagree with that, he is looking for a clear understanding of what was discussed at that meeting.

Councilman Haessly stated the building permit, the variance and the special use permit were issued by the Town to Mr. Collette and any side agreements that your client and Mr. Collette have, have no bearing on what happens between the Town enforcing the conditions of the special use permit and if there is a violation that is between the Town and Mr. Collette. Mr. Cortese stated there was no mention of a fence in the original plan and Mr. Collette did not make a modification to the original plan. The Town has issued a violation notice to Mr. Collette for cutting trees in the buffer zone. A discussion followed.

Attorney Meyer suggested the Board conduct an executive session to discuss remedies for the situation.

Ms. Braymer stated Mr. Collette's attorney did provide the Town's attorney with a restoration plan, the only thing on it is a fence near the property line and more cutting. Mr. Collette does have a future use where he would plant between the fence and the property line. Mr. Collette would like to cut more; a 20 foot swath the entire length and put a fence in the swath.

Councilman Doyle questioned what kind of fence Mr. Collette agreed to put up in the May meeting.

Steve Chase stated it would be a 6' high white vinyl fence. Councilman Doyle asked if there was any discussion about planting trees. Steve Chase stated he was going to supplement with some trees.

Timothy Fish a resident of Birchwood Drive stated he shares the same concerns as Mr. Chase. Mr. Fish would like to know what Mr. Collette's plans are.

Councilman Washburn commented the Board will discuss this in an executive session and come up with a plan for remedy. Councilman Haessly asked permission to go on Mr. Chase's property; Mr. Chase agreed.

A **motion** by Councilman Freebern seconded by Councilman Doyle and carried by a vote of 4 ayes to enter into an executive discussion at 7:44 pm to discuss current litigation. Code Enforcement Officer Ross Cortese and Zoning Board Chairman Hank LaFountain were invited to the executive session.

A **motion** by Councilman Freebern seconded by Councilman Doyle and carried by a vote of 4 ayes to exit the executive session at 8:29 pm.

Councilman Doyle suggests eliminating a portion of the draft of the Solar Energy System PILOT Law; Attorney Meyer will make a change in the proposed law.

Councilman Doyle would like to comment on the Comptroller report under Revenue Control for fines and forfeited bail for the court. At this time the year to date receipts is at \$35,380.40.00 which is running at 37 per cent of the budgeted amount. He feels less fines collected as compared to budget may create a shortfall at the end of the year. Supervisor Hogan said it is possible more fine payments may come during the second half of the year.

Supervisor Hogan asked if the Board had appointed Comptroller Mary Ordway to the Board of Assessment Review. Town Clerk commented she is certain she was appointed by the Board and suggested checking with Sole Assessor Colleen Adamec.

There being no further business before the Board a **motion** by Councilman Doyle seconded by Councilman Freebern and carried by a vote of 5 ayes to adjourn the meeting at 8:35 P.M.

Respectfully submitted,

Cynthia A. Bardin, Town Clerk